

**Mallin, Robert**

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**From:** Mallin, Robert  
**Sent:** Tuesday, April 29, 2008 4:54 PM  
**To:** Niro, Raymond P Jr  
**Cc:** Schumaker, Joan; Mehta, Manish; Swierk, Susan L  
**Subject:** FW: B&D v. Royal  
**Attachments:** stay stip.doc

Dear Raymond

Attached is a marked up version of the stipulation. Please let me know if this is acceptable.

Thanks  
Robert

Robert S. Mallin  
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**From:** Swierk, Susan L [<mailto:swierk@nshn.com>]  
**Sent:** Monday, April 28, 2008 12:55 PM  
**To:** Mallin, Robert  
**Subject:** B&D v. Royal

Robert –

Attached is a draft stipulation. Please let us know if you have any comments/changes. If it is acceptable, please confirm that we may sign on your behalf and we will taking care of filing. Thanks,

Raymond

**Sent on Behalf of Raymond P. Niro, Jr.**

5/12/2008

by Susan Swierk, legal assistant  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BLACK & DECKER INC. and BLACK &  
DECKER (U.S.) INC.,

Plaintiffs,

v.

ROYAL APPLIANCE MFG. CO., d/b/a  
TTI FLOOR CARE NORTH AMERICA,  
and TECHTRONIC INDUSTRIES CO.  
LTD.,

Defendants.

Civil Action No. 08 cv 590

Judge Manning  
Magistrate Judge Keys

**STIPULATION FOR STAY OF PROCEEDINGS  
PENDING OUTCOME OF REEXAMINATION**

The parties have agreed to a stay of this litigation pending the outcome of the PTO's reexamination of Black & Decker's patent in suit, U.S. Patent No. 5,388,303, based upon the following:

1. Defendants will file the '303 reexamination request with the PTO no later than May 10, 2008.

2. Within thirty days of entry of the agreed upon stay, Defendants will identify to Black & Decker all prior art based on printed publications which forms the basis of Defendants' present invalidity contentions pursuant to 35 U.S.C. § 102 and § 103. The parties recognize that additional prior art may be analyzed or uncovered in the future by Defendants, but this disclosure by Defendants will comport with the prior art that would have been identified in response to the portion of Black & Decker's Interrogatory No. 1.b, seeking the basis for Defendants' present § 102 and § 103 invalidity contentions based on printed publications. The parties recognize and

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agree that this stipulation will in no way prevent Defendants from relying upon any prior art to support any invalidity contention or any other defense or claim during this litigation should the patent in suit emerge from the reexamination proceeding.

**Deleted:**

**Deleted:** or that would be identified under 35 U.S.C. § 282 if the litigation were currently at that stage of proceedings.

3. The parties will file a joint report with the Court every six months from the date of entry of the agreed upon stay regarding the status of the reexamination proceedings.

Respectfully submitted,

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Attorneys for Black & Decker Inc. and Black  
& Decker (U.S.) Inc.

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